

# GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
555 Mission Street  
San Francisco, CA 94105-0921  
Tel 415.393.8200  
www.gibsondunn.com

Kristin A. Linsley  
Direct: +1 415.393.8395  
Fax: +1 415.374.8471  
KLinsley@gibsondunn.com

October 12, 2018

VIA ECF

The Honorable Paul A. Engelmayer  
United States District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 2201  
New York, NY 10007

Re: *Airbnb, Inc. v. The City of New York*, 18-CV-07712 (PAE);  
*HomeAway.com, Inc. v. City of New York*, 18-CV-07742 (PAE)

Your Honor:

On behalf of Plaintiff HomeAway.com, Inc. (“HomeAway”), we write in response to the Court’s request, during the October 5, 2018 status conference, for information from each party concerning subpoenas issued by the Mayor’s Office of Special Enforcement (“OSE”) relating to the issues raised by this litigation.

HomeAway has received a total of five subpoenas from OSE from 2017 to present. These subpoenas requested information about specific buildings, specific listings, and/or specific individuals or entities, as described below:

- May 4, 2018 Subpoena: Sought information concerning any accounts for listings in one building (identified by address) and eight specific HomeAway accounts identified by listing numbers.
- May 31, 2018 Subpoena: Sought information concerning any units or accounts listed in seven buildings (identified by address).
- June 18, 2018 Subpoena: Sought information concerning any units or accounts listed in one building (identified by address).
- June 26, 2018 Subpoena: Sought information concerning any units or accounts listed in ten buildings (identified by address).
- October 2, 2018 Subpoena: Seeks information concerning any units or accounts listed in three buildings (identified by address) and for three individuals and one entity (identified by name).

## GIBSON DUNN

October 12, 2018

Page 2

HomeAway has already produced information and documents in response to four of these five subpoenas, and the OSE has not followed up with HomeAway or requested additional information. HomeAway's response to the most recent subpoena, dated October 2, is due on October 30, and HomeAway is in the process of collecting information responsive to it. Finally, we note that certain of the above-listed subpoenas include provisions prohibiting disclosure of the existence or contents of the subpoena. HomeAway's understanding is that the limited disclosures made to the Court herein do not trigger these nondisclosure provisions. The City's counsel has confirmed that this is the City's understanding as well.

The New York County District Attorney's Office also served a subpoena on July 3, 2018, seeking information concerning two specific HomeAway accounts identified by listing number and any listings created by two specific email addresses. This subpoena got misdirected, and thus HomeAway asked the District Attorney in August if it still required the requested information. The District Attorney has not responded.

We hope that the above information, together with that provided by Airbnb and the City, will be sufficient for the Court's purposes. If it is not, HomeAway is happy to provide any additional information the Court may request.

Respectfully,

/s/ Kristin A. Linsley

Kristin A. Linsley

cc: All counsel of record (*via ECF*)

Roberta A. Kaplan

Sharon L. Nelles

*Attorneys for Plaintiff Airbnb, Inc. (via Email)*